

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Benny Hammons,

5 Petitioner

6 v.

7 Brian Williams, et al.,

8 Respondents
9

2:14-cv-01902-JAD-GWF

**Order Denying Sixth Motion for
Appointment of Counsel, Denying
Motion for Leave to File Excess Pages,
and Granting Motion to Extend Time**

[ECF Nos. 61, 63, 64]

10 This is pro se § 2254 petitioner Benny Hammons's sixth motion for appointment of counsel.¹
11 As I have noted several times in this case, there is no constitutional right to appointed counsel in
12 federal habeas corpus proceedings.² The decision to appoint counsel lies within the sound discretion
13 of the trial court,³ and appointment of counsel is only required if the case is so complex that denial of
14 counsel would amount to a denial of due process or if the petitioner's education is so limited that he
15 is incapable of fairly presenting his claims.⁴ Hammons's amended petition sufficiently presents the
16 issues that he wishes to raise, the legal issues do not appear to be particularly complex, and
17 Hammons offers no new argument to persuade me that appointment of counsel has become
18 necessary. I therefore deny his motion.

19 Respondents have filed a motion for a 30-day extension of time to respond to Hammons's
20 petition and a motion for leave to file excess pages. Good cause appearing, I grant respondent's
21 request for a 30-day extension to file their answer. But I deny respondents' motion for leave to file
22 excess pages. Respondents explain that they are not yet sure if they will need extra pages, and they
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24 ¹ ECF No. 43.

25 ² *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.
26 1993).

27 ³ *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), *cert. denied*, 481 U.S. 1023 (1987).

28 ⁴ *See Chaney*, 801 F.2d at 1196.

1 do not identify the number of excess pages requested. Because respondents have not even
2 determined *whether* they will need extra pages, let alone how many pages, I decline to grant their
3 motion for an undisclosed number of excess pages.⁵

4 **Conclusion**

5 Accordingly, IT IS HEREBY ORDERED that Hammons's sixth motion for appointment of
6 counsel [ECF No. 61] is **DENIED**.

7 IT IS FURTHER ORDERED that respondents' motion for leave to file excess pages [ECF
8 No. 63] is **DENIED without prejudice** and motion to extend time [ECF No. 64] is **GRANTED**.
9 **Respondents must file their answer by December 9, 2016.**

10 Dated this 15th day of November, 2016.

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12 Jennifer A. Dorsey
13 United States District Judge
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27 ⁵ See L.R. 7-3 (Requiring a motion to exceed page limits to be accompanied by a declaration stating
28 in detail the reasons for, and number of, additional pages requested).